

TITLE 327 WATER POLLUTION CONTROL BOARD

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**IDEM-S SUGGESTED CHANGES TO PROPOSED RULE REGARDING CONFINED  
FEEDING OPERATIONS**

**LSA Document #00-235**

Revisions made by LSA under the Administrative Rules Drafting Manual (IC 4-22-8-4(a)(2)) and incorporated into the printed version (LSA Document #00-235) have been made in the version of this rule presented to the board for final adoption.

Page Citation and Description of Change

1 1. 327 IAC 16-1-1(a)(2)

Delete the word **land**. Add the phrase **of manure onto the land** before the phrase **in Indiana**. Replace the phrase **of manure** with the phrase **that is**. Replace the word **from** with the word **by**.

2 2. 327 IAC 16-1-2(a)(2)

Delete the existing language and replace with the following:

**The owner/operator of a confined feeding operation or other animal feeding operation shall develop an emergency spill response plan in accordance with 327 IAC 16-9-4(a) prior to the collection and storage of any manure**

2 3. 327 IAC 16-1-2(a)(3)

Delete subdivision (3).

2 4. 327 IAC 16-1-2(b)

Insert the following as the first sentence of subsection (b):

**All confined feeding operation approvals issued**

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**prior to the effective date of this rule shall expire no later than five (5) years from the effective date of this rule unless an application for renewal has been submitted in accordance with 327 IAC 16-7-4.**

Insert as the last sentence of subsection (b):

**Approval renewals shall be issued for a fixed term not to exceed five (5) years@**

2 5. 327 IAC 16-1-4

Delete the language in this section and replace with the following:

**An approval under this article is intended to satisfy the environmental requirements under the Clean Water Act. The commissioner is not limited from requiring a NPDES permit under 327 IAC.@**

5 6. 327 IAC 16-2-11

Replace the word **Aflooring@** with the word **Abedding@**.

5 7. 327 IAC 16-2-12

Replace the phrase **Aanimal confinement@** with the phrase **Aconfined feeding@**. Delete the second sentence.

6 8. 327 IAC 16-2-16.5

Add a definition of **Aground water@** as follows:

**327 IAC 16-2-16.5 AGround water@defined**

**Authority:  
IC  
13-14-8-7;  
IC  
13-15-2-1;  
IC**

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**13-18-10-4**

**Affected:**

**IC**

**13-11-2;**

**IC**

**13-14;**

**IC**

**13-15;**

**IC**

**13-18;**

**IC**

**13-30**

**Sec. 16.5** **Ground water** means such accumulations of underground water, natural or artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this state, but excluding manmade underground storage or conveyance structures. (*Water Pollution Control Board; 327 IAC 16-2-16.5*)

6 9. 327 IAC 16-2-17

Add the phrase **soil type** after the word **wind**.

8 10. 327 IAC 16-2-28

Add the phrase **required by this article and** after the phrase **other animal feeding operation activities**.

10 11. 327 IAC 16-2-35

Add the phrase **water quality** after the words **where conditions exist that pose a specific**.

12 12. 327 IAC 16-2-43(8)

Delete subdivision (8).

13 13. 327 IAC 16-3-1(c)

Replace the word **control** with the phrase

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**Prevent spills or.** Delete the word **unpermitted.**  
Replace the phrase **and spills,** with the phrase **in violation of the approval or this article.**

13 14. 327 IAC 16-3-1(e)

Add the phrase **staged or** before the word **applied** in the two places it is used.

15 15. 327 IAC 16-4-4

Change the word **will** to the word **may**. In subdivision (3), change the word **category** to the word **type**.

16 16. 327 IAC 16-6-1(b)

Change the word **must** to the word **shall**.

16 17. 327 IAC 16-6-1(b)(1)

At the end of this provision, add a comma and then the phrase **except the owner/operator shall comply with 327 IAC 16-9-4 within ninety (90) days of the effective date of this rule.**

17 18. 327 IAC 16-6-1(d)

Replace the date **July 1, 2001** with the date **January 1, 2002**.

17 19. 327 IAC 16-6-1(e)(1) and 327 IAC 16-6-1(e)(2)

Replace the date **July 1, 2001** with the date **January 1, 2002**.

17 20. 327 IAC 16-6-1(f)

Add subsection (f) to read as follows:

**(f) All confined feeding operation approvals issued prior to the effective date of this rule shall expire no later than five (5) years from the effective date of this rule unless a renewal application is submitted in accordance with 327**

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**IAC 16-7-4. The commissioner may require existing confined feeding operations or animal feeding operations with an approval issued prior to the effective date of this rule to submit an application for an approval renewal in accordance with 327 IAC 16-1-2(b).**

17 21. 327 IAC 16-7-1(b)

Replace the phrase **Anew confined feeding operation or other animal feeding operation@** with the phrase **Aconfinement building@**. Delete the phrase **Aan additional@**. Add the phrase **Aa new or@** before the phrase **Aan existing confined feeding operation or other animal feeding operation@**.

18 22. 327 IAC 16-7-2(b)(5)

Add the phrase **Afor proposed liquid manure storage structures@** after the phrase **Ainformation from test holes@**. Delete the phrase **Aat least five (5) feet below the base of the proposed liquid manure storage structure and@**. Add the following as the last sentence of this provision:

**Test holes for concrete liquid manure storage structures must be at least two (2) feet below the base of the structure. Test holes for earthen liquid manure storage structures must be:**

**(A) at least five (5) feet below the base of the structure for non-karst areas; or**

**(B) in accordance with 327 IAC 16-8-1(b)(1) in areas of karst terrain or over mines.**

18 23. 327 IAC 16-7-2(b)(11)

Replace the phrase **Aprotection of human health and the environment@** with the phrase **Acompliance with this article@**.

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18 24. 327 IAC 16-7-2(c)

Delete the phrase **Afor the following@**. In (1), replace the word **AThe@** with the words **Aif the@**, and replace the period with a semicolon. In (2), delete the language and replace with **Aconsistent with IC 13-18-10-2.1; or@**. Add (3) as follows: **A(3) if the applicant does not meet the requirements of this article.@**

19 25. 327 IAC 16-7-2(d)

Add the phrase **Aof the application@** after the phrase **Aof the basis for denial@**. Replace the word **Aplacing@** with the phrase **Aplacement of additional@**.

19 26. 327 IAC 16-7-3(a)

Replace the phrase **Ashall be issued@** with the phrase **Aand approval renewal shall be effective@**.

19 27. 327 IAC 16-7-3(b)

Add a new first sentence to read as follows:

**AIf the owner/operator wishes to continue the activity regulated by the approval after the expiration date of the approval, the owner/operator shall apply for and obtain a approval renewal.@**

19 28. 327 IAC 16-7-3(b)(1) and 327 IAC 16-7-3(b)(2)

Change the phrase **Aa renewal@** to the phrase **Aan approval renewal@**.

19 29. 327 IAC 16-7-4(a)

Add the word **Aapproval@** before the word **Arenewal@** in the first sentence. Add the word

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**Aapproval@**before the second use of the word  
**Arenewal@**in the last sentence. Delete the word  
**Aprevious@**in the first sentence.

20 30. 327 IAC 16-7-4(b)

Add the word **Aapproval@**before the word  
**Arenewal@**.

20 31. 327 IAC 16-7-5(a)(2)

Delete the phrase **Aor alternative management  
methods@**. Replace the phrase **Aphosphorous in  
soils@**with the phrase **Aapplication of manure to  
land@**.

20 32. 327 IAC 16-7-5(b)(4)

Change the reference to **Asection 6"** to **Asection 7"**.

20 33. 327 IAC 16-7-5(b)(5)

Delete the existing language and replace with the  
following:

**A(5) Corrections of typographical or other minor  
errors within the approval or other minor  
changes as determined by the commissioner@**

24 34. 327 IAC 16-7-13(d)

Add the phrase **Arelevant to applicable rules or  
laws@**after the phrase **Awhere environmental  
concerns@**.

25 35. 327 IAC 16-8-2(a)(2)

Add the phrase **AExcept for subsection (b),@**to the  
beginning of the subdivision.

25 36. 327 IAC 16-8-2(b)

Add a new subsection (b) to read as follows:

**A(b) A solid manure storage structure that**

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**contains the manure and prevents storm water from entering the structure must be maintained to have a minimum setback of one hundred (100) feet from the features in (a)(2) of this section@**

25 37. 327 IAC 16-8-2

Renumber subdivisions (b) through (e) as new numbers (c) through (f).

26 38. 327 IAC 16-8-2(f)

In new subsection (f), change the reference to subsection (d) to reference subsection (e).

27 39. 327 IAC 16-8-6(a)

Delete the phrase **Awith a seerate of not more than one sixteenth (1/16) inch per day and must@** and replace with the word **Ato@**.

29 40. 327 IAC 16-8-10(a)

In the second sentence, add the phrase **Adesigned for the one (1) year, one (1) hour precipitation event@** after the phrase **Alow velocity channel@**.

29 41. 327 IAC 16-8-10(b)

Replace the phrase **Atwo (2)@** with the phrase **Atwenty-five (25)@**.

31 42. 327 IAC 16-9-1(i)

Delete the phrase **Athat crosses property lines or enters waters of the state@**.

31 43. 327 IAC 16-9-2

Delete the phrase **Athe confined feeding operation, other animal feeding operation, or@**.

31 44. 327 IAC 16-9-3

Delete the phrase **Aand manure@** in the section title



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and throughout the section.

31 45. 327 IAC 16-9-4(a)

Replace the word **operations** with the word **operation** in two places. Replace the first use of the word **and** with the word **or**. Delete subdivision (1)(A) and (1)(B).

32 46. 327 IAC 16-9-5(a)

Delete the phrase **as needed**. Change subdivision (1) to read as follows:

**(1) All valid approvals, modifications, and notifications relevant to the approvals**

32 47. 327 IAC 16-9-5(b)

At the end of subdivision (1), add a comma and the phrase **Regarding completed self-monitoring records for three (3) years**. Delete subdivision (2) and renumber the remaining subdivisions. At the end of the new subdivision (2), delete **(c)** and add a comma and the phrase **Regarding minimum acreage records**. In new subdivision (3), replace **(d)** with **(c)**, and add the phrase **Regarding land application records** before the phrase **for five (5) years**. In new subdivision (4), add the phrase **Regarding marketing and distribution records** before the phrase **for three (3) years**. In new subdivision (5), add the phrase **in accordance with section 4(a)(3) of this rule** after the phrase **any response implemented**.

34 48. 327 IAC 16-10-3(c)(3)

Delete the phrase **Natural Resources Conservation Service or**.

34 49. 327 IAC 16-10-3(f)

In (1), delete **Frozen ground with** and replace with **Surface application of manure to**, add the word **adequate** before **residue protection**, and

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replace the phrase **Amust not be used for application of liquid or solid manure** with the phrase **Is prohibited on snow covered or frozen ground**. Delete the language in (2) and replace as follows: **ASurface application to snow covered or frozen ground of manure from a new or modified operation approved after the effective date of this rule is prohibited, except as allowed in conditions established in a valid approval obtained under 327 IAC 16-7.** Add a new (3) to read as follows: **A(3) Spray irrigation of liquid manure to snow covered or frozen ground is prohibited** Add a new (4) to read as follows: **A(4) Any manure application that causes a water quality violation is a violation of this article and will result in enforcement action.**

35 50. 327 IAC 16-10-3(i)

Add a new subsection (i) to read as follows: **A(i) Manure shall not be applied on saturated ground.**

36 51. 327 IAC 16-11-1(a)

Replace the phrase **Asctions 3 and 4** with the phrase **Asection 3**.

37 52. 327 IAC 16-11-2

Designate the sentence in this section as **A(a)** and add a new (b) to read as follows:

**A(b) A manure storage structure that has been temporarily shut down for three (3) years must be cleaned out in accordance with section 3(c)(1) and 3(c)(2) of this rule**

37 53. 327 IAC 16-11-3(a)

Replace the word **Amust** with the word **Ashall**. In subdivision (1), add the phrase **Aprior to expiration of the approval** after the phrase **Ain this section**. In subdivision (2), replace the phrase **Aso that there is no release** with the phrase **Ain accordance with**

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**the requirements of the approval and this  
article.**

37 54. 327 IAC 16-11-3(c)

Replace the word **Amust** with the word **Ashall**.  
Switch the order of subdivisions (2) and (3), and  
renumber and format accordingly.